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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/833,510	04/12/2001	Sachiko Nishiura	14460	2988
23389	7590	01/25/2005	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA GARDEN CITY, NY 11530			CHANG, SUNRAY	
			ART UNIT	PAPER NUMBER
			2121	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/833,510	<b>Applicant(s)</b> NISHIURA, SACHIKO	
	<b>Examiner</b> Sunray Chang	<b>Art Unit</b> 2121	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2004.  
2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-12 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 12 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. This office action is in responsive to the paper filed on December 10<sup>th</sup>, 2004.
2. Claims 1 – 12 are presented for examination.

Claims 1 – 12 are rejected.

**Claim Rejections - 35 USC § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1 – 12 are rejected** under 35 U.S.C. 102(e) as being anticipated by Naomichi Nonaka (U.S. Patent No.6,519,243 and referred to as Nonaka hereinafter).

3. **Regarding independent claim 1**, Nonaka teaches,
  - A receiving system for acquiring broadcast data through an Internet [performing unidirectional packet communications utilizing unidirectional paths and an Internet network, Col. 3, Line 54 – 55].

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- Broadcast reception means for receiving modules [bi-directional packet communication, Col. 3, Lines 56 – 57] of said broadcast data [IRD, Fig. 1 and Col. 3, Line 61].
- Internet access means for accessing Internet [RGW, Fig. 1 and Col. 3, Line 61].
- Monitoring means [RGW, Col. 6, Line 61] for monitoring [detected, Col. 6, Line 61] conditions of receiving [interruption, Col. 6, Line 60].
- Control means for switching reception of at least one of said modules of said broadcast data [IP packet] from said broadcast [satellite] reception means [RGW] to said Internet access means [internet network], when conditions deteriorate [Col. 6, Line 63 – 66].

**4. Regarding dependent claims 2, 5 and 8,**

- Internet access means acquires only non-received modules [IP packet which is to be sent to RGW] by broadcast reception means [an interruption in the satellite data circuit is detected at the RGW, a request is and transmitted to the SGW by way of the internet network]. [Col. 6, Line 60 – 66].

**5. Regarding dependent claims 3, 6, and 9,**

- Memory means for storing in advance a list of names of modules of broadcast [The IP packet sent here is a destination address “PCa” and is therefore conveyed to PCa, Col. 6, Line 46 – 48];
- Comparison means for comparing names of modules already received by broadcast reception means with list and detecting non-received modules [it is essential to take into account temporary circuit interruptions, when utilizing satellite data circuit, Col. 6, Line 57 – 59];

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- Control means switches off broadcast reception means and switches on Internet access means when non-received modules are detected [an interruption in the satellite data circuit is detected at the RGW, a request is and transmitted to the SGW by way of the Internet network, Col. 6, Line 60 – 62].

**6. Regarding dependent claims 4 and 7,**

- A receiving method for acquiring broadcast data through an Internet [performing unidirectional packet communications utilizing unidirectional paths and an Internet network, Col. 3, Line 54 – 55].
- Receiving modules of [packet communication] broadcast data [when the RGW receives the encapsulated IP packet, Col. 6, Line 40 – 41];
- Monitoring conditions of receiving [when an interruption in the satellite data circuit is detected at the RGW, Col. 6, Line 60 – 61];
- Stopping receiving, when conditions of receiving deteriorate;
- Accessing internet only when conditions of said receiving deteriorate; [Col. 12, Lines 7 – 11] and
- Acquiring through Internet said modules of [IP packet, Col. 6, Line 63] said broadcast data, which has not received yet [an interruption in the satellite data circuit is detected at the RGW, a request is and transmitted to the SGW by way of the Internet network, Col. 6, Line 60 – 62].

**7. Regarding dependent claims 10 – 12,**

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- Internet access means [internet network] selects [assign] at least one corresponding access destination [network address] from a list of access destinations stored in advance [beforehand] in an access destination memory means [address management facility] and designates at least one server [RGW] for receiving and acquiring at least one of said modules of said broadcast data. [Col. 7, Line 59 – Col. 8, Line 4]

**Response to Amendment**

**Claim Rejections - 35 USC § 102**

8. Regarding independent claims 1, 4, and 7, Applicant's arguments regarding "accesses the Internet only to receive modules that have not been received using the Internet access means" (Page 7, lines 16 – 18) and "when an interruption occurs, the receiving unit requests that all of the data is transmitted via the Internet." are disagreed with. Applicant's interpretation does not appear to be a fair reading of the reference. Nonaka, at Col. 6, Lines 60 – 66, <sup>states</sup> ~~sets~~ that when an interruption is detected, the packets, which are to be sent are transmitted by way of the Internet. Therefore, only those packets that have not been received via the broadcast means are now transmitted by way of the Internet network.

Further, Applicant's argument is unclear. It would appear that applicant intends the following: "accesses the Internet, only to receive modules that have not been received, using the Internet access means". Also, it appears that this argument is directed to claims 2, 5, and 8, not claims 1, 4, and 7. As stated above, Nonaka teaches using the Internet to receive only packets that have not been received by broadcast means.

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9. Regarding claims 4 – 5, and 7 – 8, Applicants' argument regarding "Nonaka teaches that Internet access is always on. The PC always has access to the Internet." (Page 8, lines 9 – 10).

*AC 1/19/05*  
This reference is not clear that the Internet connection is always on. However, even <sup>the</sup> if examiner accepts that the connection is always on. Applicant's claims are not so limited as to have the connection switched on and off. Further <sup>more</sup>, the use of <sup>switch</sup> ~~of~~ some other device to control the connection is not considered to be novel.

*AC 1/19/05*  
Assuming that applicants' assumption is correct, the two inventions are different, does not render the 35 USC §102 rejection to be in error. Under 35 USC §102, all that is required is for the reference to disclose the same limitation <sup>s</sup> as applicant claims, and this, applicants agree with. Applicants argue features disclosed in the specification and not set forth in the claims. Features from the specification are not read into the claims and therefore, the rejection is maintained.

*AC 1/19/05*  
10. Regarding claims 3, 6, and 9, Applicants' argument regarding "Nonaka in no way suggests a memory means for storing in advance a list of names of said modules of said broadcast and a comparison means for comparing names of modules already received with said list using a comparison means." (Page 9, lines 5 – 7) is disagreed with. Nonaka teaches TCP/IP [Col. 13, Lines 37 – 39], a list of names [sequence, Col. 17, Lines 30 – 34], and a database for storage [1100, Fig. 2]. Examiner further recites, definitions from "Microsoft Computer Dictionary" (3<sup>rd</sup> edition, 1997), TCP governs the breakup of data into packets to be sent via IP, and reassembling, verifying the complete messages from packets received by IP. Applicant is arguing the very basic TCP/IP definitions.

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Further, "Internet Based Networking & Data Communications" teaches [Page 63 – 65], the information may be buffered (in order to collect sufficient data to 'fill up' a packet) [Page 63], The acknowledge number is used to acknowledge receipt of the segment. However, within the TCP header, the number specified is actually the number of the segment that is next <sup>expected</sup> ~~expected~~, e.g. if segment 10 has just arrived, then the acknowledgement is 11 ... The checksum is provided as a means of checking if the data was correctly transmitted without an error[Page 65].

### Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunray Chang whose telephone number is (571) 272-3682. The examiner can normally be reached on M-F 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-3506.

Sunray Chang  
Patent Examiner  
Group Art Unit 2121  
Technology Center 2100  
U.S. Patent and Trademark Office

  
**Anthony Knight**  
**Supervisory Patent Examiner**  
**Group 3600**

January 19, 2005